

UNITED STATES FEDERAL DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

SPUR TRACK PROPERTIES LLC;
NARRAGANSETT PROMITIONS, INC.;
and STEVEN MEDEIROS,
Plaintiffs,

v.

THE CITY OF PROVIDENCE; and
SARA SILVERIA in her capacity as
Finance Director of the City of Providence,
Defendants.

C.A. No.: 1:24-cv-00010-MSM-PAS

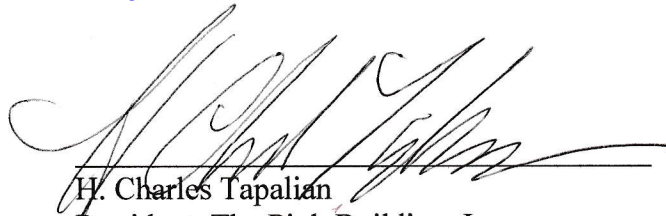
AFFIDAVIT OF H. CHARLES TAPALIAN

I, H. Charles Tapalian, being duly sworn hereby depose and state:

1. I am over the age of eighteen.
2. I am President of The Pink Building, Inc. ("Pink Building"), a Rhode Island domestic profit corporation.
3. I am the President of Cuatro Amigos Holding Corp. ("Cuatro")¹, a Rhode Island domestic profit corporation.
4. I am the managing member of Spur Track Properties, LLC ("Spur Track"), a Rhode Island limited liability company.
5. Pink Building is the record owner of that certain parcel of real estate located at 245 Allens Avenue, Providence, Rhode Island marked on Tax Assessor's Plat 46, Lots 433 and 497.
6. Cuatro is the record owner of that certain parcel of real estate located at 255 Allens Avenue, Providence, Rhode Island marked on Tax Assessor's Plat 46, Lot 428.

¹ Various documents in the City of Providence Land Evidence Records misname this entity. It can be found logged as "Quatro Amigos Holding Corp.," "Cuatro Amigos Holding Corp.," and "Cuartos Amigos Holding Corp." However, all documents intend to name "Cuatro" as that is the Rhode Island domestic profit corporation.

7. Spur Track is the record owner of that certain parcel of real estate located at 257 Allens Avenue, Providence, Rhode Island marked on Tax Assessor's Plat 47, Lot 820.
8. These four parcels are contiguous and are situated between Allens Avenue and Poe Street. *See* parcel map attached hereto as **Exhibit 1**.
9. What was formerly known as "Bay Street" ran perpendicular from Allens Avenue towards Poe Street, but terminated at a dead end, and was located between the Cuatro and Spur Track parcels.
10. In 1997, the City of Providence abandoned Bay Street in this area, and the property was conveyed to Cuatro. *See* Resolution attached hereto as **Exhibit 2**.
11. In exchange for the Bay Street abandonment, Cuatro paid the City of Providence \$10,000.00. *Id.*
12. Additionally, as a condition of the abandonment and conveyance of the Bay Street property, Cuatro and Spur Track also conveyed easements to The Narragansett Electric Company and New England Telephone and Telegraph Company for access to the existing utility distribution systems. *Id.*
13. What was formerly known as "Bay Street" has been private property since 1997.
14. Along the Poe Street boundary of these four, contiguous parcels is a shared parking lot for use of patrons visiting these properties.
15. On October 5, 2000 I executed an agreement between each of these entities for the shared use of the parking lot and the parking plan. *See* Agreement attached hereto as **Exhibit 3**.
16. For the past two years the Providence Police Department has routinely entered onto the private property to harass the business owners and patrons to these properties, and the patrol officers on site incorrectly assert that Bay Street is a public road.



H. Charles Tapalian
President, The Pink Building, Inc.
President, Cuatro Amigos Holding Corp.
Managing Member, Spur Track Properties, LLC

State of Rhode Island
County of Providence

Subscribed and sworn to before me in the County of Providence, State of Rhode Island
on this ____ day of February, 2024.

Notary Public
My Commission Expires on:

EXHIBIT 1



maps.providenceri.gov

10:19 AM Mon Dec 18



EXHIBIT 2

THE CITY OF PROVIDENCE **K 3545 PG 206**
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 644

Approved November 22, 1996

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled: "Providence, RI Department of Public Works - Engineering Office, Street Line Section Plan No. 064571 dated November 14, 1995.

VIZ:

BAY STREET, (portions of), shown as cross-hatched area on accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and is proposed to be abandoned as a Public Highway. Said Abandonment is specifically conditioned precedent upon the following: (1) Petitioner shall tender the amount of Ten Thousand Dollars (\$10,000.00) in legal tender U.S. to the City of Providence, (2) The petitioner shall convey an easement acceptable to the Providence Water Supply Board which will permit retention of its facilities in their existing location, together with the right to inspect, maintain, operate and replace the same and with twenty-four hour access to said facilities, or in the alternative should it be determined by the petitioner that any such facilities need be relocated in order to comply with an intended use, the petitioner shall assume all costs of relocation, (3) The petitioner shall convey an easement acceptable to the Narragansett Electric Company which will permit retention of its facilities in their existing location, together with the right to inspect, maintain, operate and replace the same and with twenty-four hour access to said facilities, or in the alternative should it be determined by the petitioner that any such facilities need be relocated in order to comply with an intended use, the petitioner shall assume all costs of relocation, (4) Petitioner shall undertake no construction in, about or upon said premises without the express written consent of the Chief of the Providence Fire Department. Additionally, Petitioner recognizes the existence of sprinkler connections necessary to the providence Fire Department and the Providence Fire Department shall have unimpeded access to said system and across the abandoned property twenty-four (24) hours per day. In the alternative, should the Chief of the Fire Department find that the creation of a "fire lane" so-called, is satisfactory for Department needs, then this condition shall be met by the creation of said fire lane, together with the assent of the petitioners thereto.

BK3545PG207

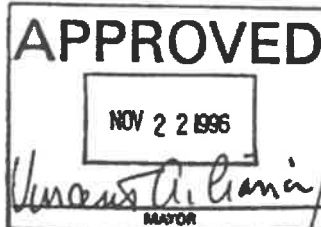
Page 2

ORDERED, That the Traffic Engineer be and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway," And it is further

ORDERED, That after the entry of this order or decree the City Clerk shall cause a notice thereof to be published in a newspaper, published in the County of Providence at least once a week for three successive weeks and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

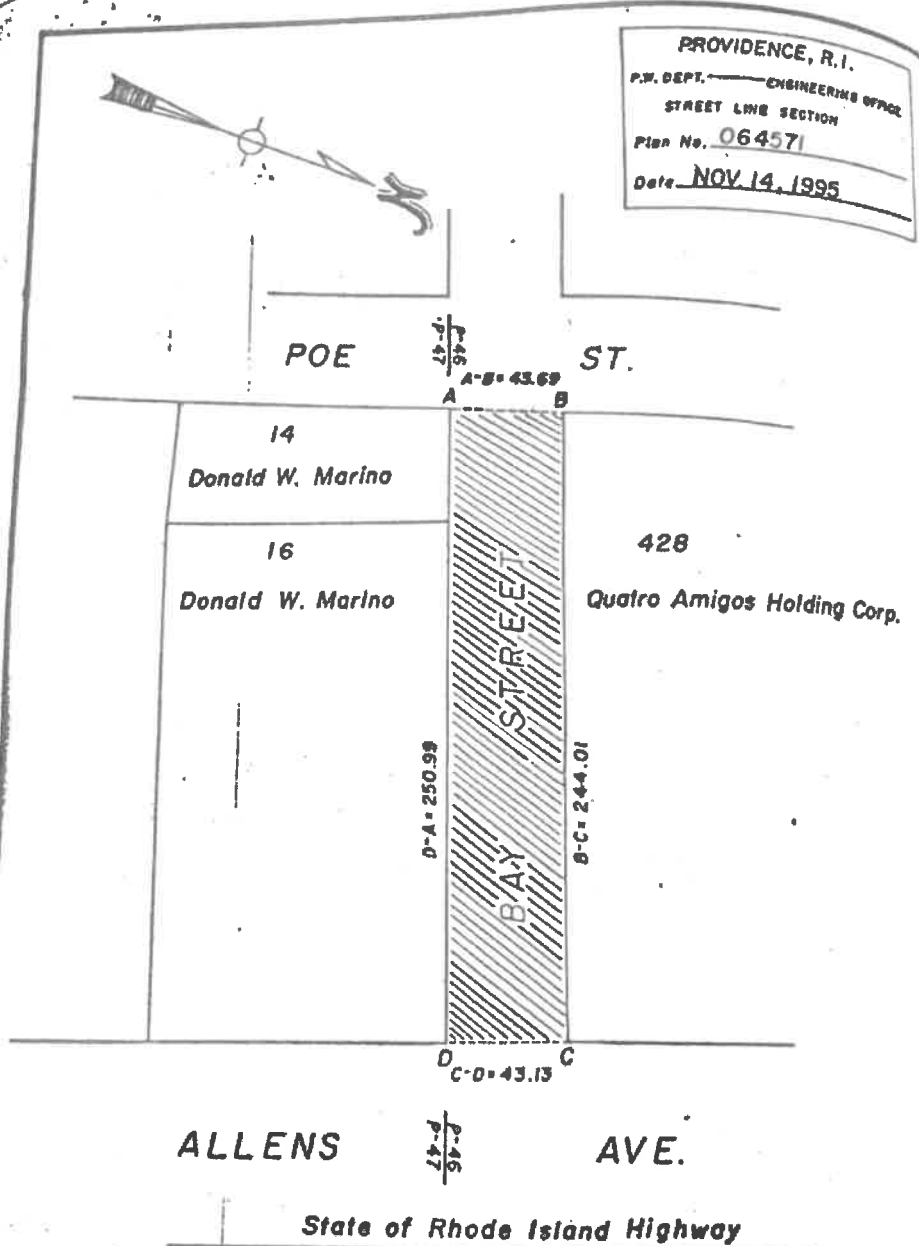
IN CITY COUNCIL
NOV 21 1996
READ AND PASSED

Evelyn V. Fargnoli
PRES.
Michael R. Clement
CLERK



Michael R. Clement
Michael R. Clement
City Clerk

BK3545PG208



NOTES: Cross-Hatched Area (A-B-C-D-A) Indicates Proposed Abandonment of a Portion of a Bay St.

Total Square Footage = 10,674.68

Lot Numbers Taken From A.P. 46 B. 47

CITY OF PROVIDENCE, R.I.
Public Works Dept. Engineering Office
Showing Proposed Abandonment of a
Portion of Bay St.
Drawn by Grove Z. Checked by T.A.M.
Scale 1" = 50' Date 11-14-95
Corrected by Thomas Associate Engr.
Approved _____
CHIEF ENGINEER

Vincent A. Cianci Jr.
Mayor

BK3545PG209

John J. Partington
Commissioner

James F. Rattigan
Chief of Department

David D. Costa
Fire Marshal



PROVIDENCE FIRE DEPARTMENT
FIRE PREVENTION DIVISION
"Smoke Detectors Save Lives"

April 29, 1997

John T. D'Amico, Jr.
Senior Assistant City Solicitor
Providence Law Department
100 Fountain Street
Providence, RI 02903

Dear Mr. D'Amico:

Please find enclosed a photocopy of a map concerning the Bay Street abandonment modifications. The map indicates that 5 feet on either side of the Fire Department control at 255 Allens Avenue is a "no parking" zone at all times. Additionally, a lane twenty-feet wide from Allens Avenue through the Fire Department control valve at 257 Allens Avenue is a no parking zone at all times. Finally, a traffic lane through the center of the former Bay Street is to be maintained free of parked vehicles.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David Costa".

David Costa
Fire Marshal

Enclosure

209 Fountain Street - Providence Rhode Island 02903 - (401) 421-8290

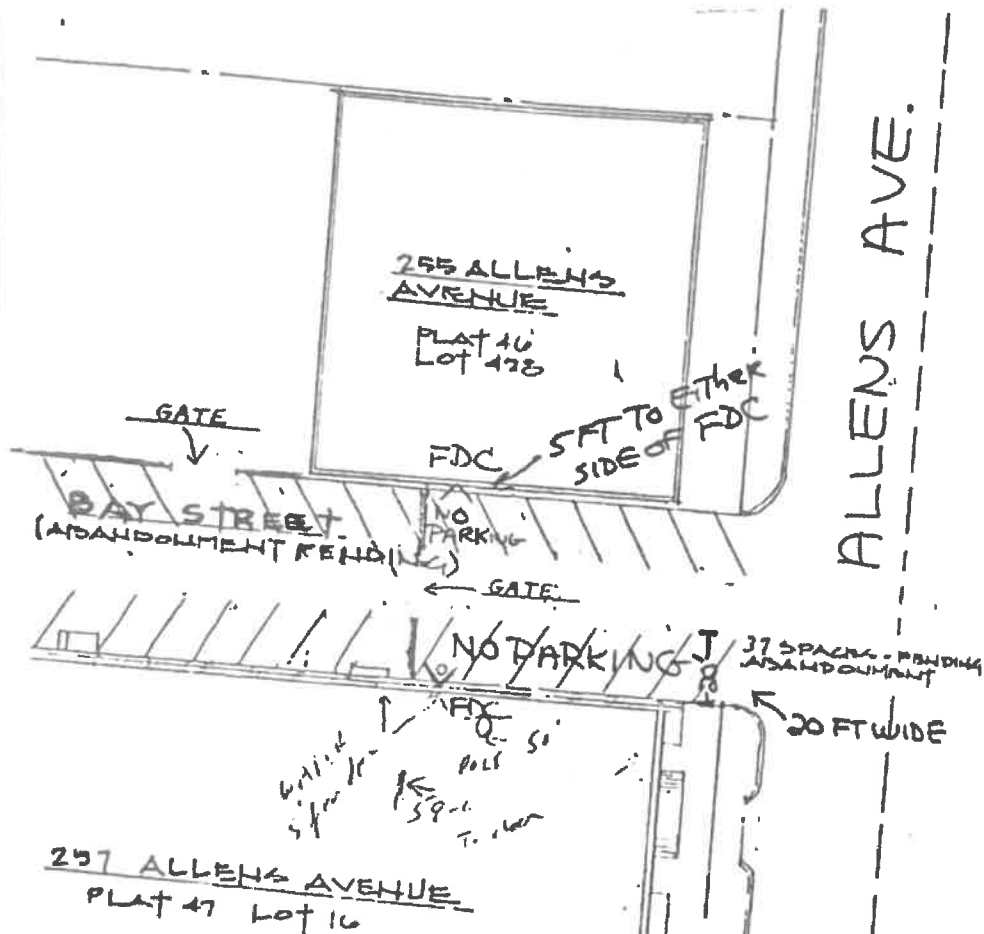
BK3545PG210

FDC - FIRE DEPARTMENT SPRINKLER CONNECTION

- NO PARKING

— - FENCE w/ GATE

— - TRAVEL LANE



MAY 06 1997

Received for Record at 11 o'clock 45 min A
Recorder of Deeds

Robert L Ricci

BK 3545PG211

GRANT OF EASEMENT

CUATRO AMIGOS HOLDING CORP., a Rhode Island corporation ("Grantor"), for consideration paid, grants to THE NARRAGANSETT ELECTRIC COMPANY, a Rhode Island corporation and having a principal place of business at 280 Melrose Street, Providence, Rhode Island 02901, and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY, a corporation organized and existing under the laws of New York and duly authorized to do business in said State of Rhode Island, with a principal place of business at 125 High Street, Boston, Massachusetts 02110 ("Grantees"), their successors and assigns, with Quitclaim Covenants, a perpetual right and easement as described in Section 1 below ("Easement") in, under, through, over, across, and upon the Grantor's land, as described in Section 2 below ("Grantor's Land").

Section 1 -- Description of Easement

The "Easement" granted by the Grantor to the Grantees consists of the perpetual right and easement:

- (a) to reconstruct, repair, replace, add to, maintain and operate an overhead distribution system ("Distribution System") for the distribution of electric current and for telephone use, which Distribution System includes a line of poles with the necessary wires, cables, anchors, guys, equipment and appurtenances attached thereto, over, across and upon the Grantors' Land as may from time to time be required for the purpose of supplying electric and telephone service to the Grantors' Land and land of others adjoining the Grantors' Land;
- (b) to clear and keep cleared from time to time the portions of the Grantor's Land wherein the Distribution System is located of such trees, shrubs, bushes, structures, objects and surfaces as may in the opinion and judgment of the Grantees, their successors and assigns, interfere with the safe and proper operation of the Distribution System;
- (c) to make such excavation or excavations as may be reasonable and necessary to construct, reconstruct, repair and remove the Distribution System. But the Grantees shall properly backfill any excavation and restore the surface of the Grantor's Land in as good condition as before the excavation was made; and
- (d) to pass over and across the Grantor's Land as reasonable and necessary for all the purposes described in this Section.

BK3545PG212

Section 2 -- Description of Grantor's Land

The "Grantors' Land" consists of that portion of Bay Street from Poe Street east to Allen Avenue abandoned by the City Council of the City of Providence by virtue of Resolution No. 644, of the City Council of the City of Providence, approved November 22, 1996.

Section 3 -- Location of the Distribution System

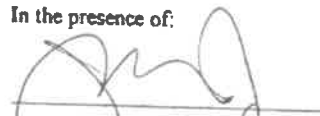
The location of the "Distribution System" shall become established as the same are now located, but, provided, however, that if the future use or development of the said abandoned portion of Bay Street shall require the relocation of said Distribution System, or any part or parts thereof, then, the Grantee, at the written request of the Grantor, will make such relocation to mutually satisfactory alternate locations, and the Grantee will require the Grantor to pay to the Grantee the cost of such relocation.

Section 4 -- Distribution System Ownership

It is agreed that the Distribution System shall remain the property of the Grantees, their successors and assigns, and that the Grantees, their successors and assigns shall pay all taxes assessed thereon.

IN WITNESS WHEREOF said Cuatro Amigos Holding Corp. has caused its corporate seal to be hereto affixed and these presents to be signed by its proper officer for that purpose duly authorized this 6 day of FEBRUARY, 1997.

In the presence of:


STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

CUATRO AMIGOS HOLDING CORP

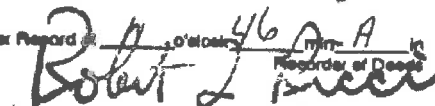
By 
Authorized Officer

In PROVIDENCE in said County on the 6 day of FEBRUARY, 1997, before me personally appeared the above named H. CHARLES TAPPAWALA, PRES. of Cuatro Amigos Holding Corp., to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him executed to be the free act and deed of Cuatro Amigos Holding Corp. and the free act and deed of said H. CHARLES TAPPAWALA individually and in said capacity.


Notary Public
Printed Name: JOHN A. GLASMAN
My Commission Expires 6-25-97

MAY 06 1997

Received for Record in


Robert L. Smith
Recorder of Deeds

BK 3545 PG 213

GRANT OF EASEMENT

SPUR TRACK PROPERTIES, LLC, a Rhode Island limited liability company ("Grantor"), for consideration paid, grants to THE NARRAGANSETT ELECTRIC COMPANY, a Rhode Island corporation and having a principal place of business at 280 Melrose Street, Providence, Rhode Island 02901, and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY, a corporation organized and existing under the laws of New York and duly authorized to do business in said State of Rhode Island, with a principal place of business at 125 High Street, Boston, Massachusetts 02110 ("Grantees"), their successors and assigns, with Quitclaim Covenants, a perpetual right and easement as described in Section 1 below ("Easement") in, under, through, over, across, and upon the Grantor's land, as described in Section 2 below ("Grantor's Land").

Section 1 -- Description of Easement

The "Easement" granted by the Grantor to the Grantees consists of the perpetual right and easement:

- (a) to reconstruct, repair, replace, add to, maintain and operate an overhead distribution system ("Distribution System") for the distribution of electric current and for telephone use, which Distribution System includes a line of poles with the necessary wires, cables, anchors, guys, equipment and appurtenances attached thereto, over, across and upon the Grantors' Land as may from time to time be required for the purpose of supplying electric and telephone service to the Grantors' Land and land of others adjoining the Grantors' Land;
- (b) to clear and keep cleared from time to time the portions of the Grantor's Land wherein the Distribution System is located of such trees, shrubs, bushes, structures, objects and surfaces as may in the opinion and judgment of the Grantees, their successors and assigns, interfere with the safe and proper operation of the Distribution System;
- (c) to make such excavation or excavations as may be reasonable and necessary to construct, reconstruct, repair and remove the Distribution System. But the Grantees shall properly backfill any excavation and restore the surface of the Grantor's Land in as good condition as before the excavation was made; and
- (d) to pass over and across the Grantor's Land as reasonable and necessary for all the purposes described in this Section.

BK3545PG214

Section 2 -- Description of Grantor's Land

The "Grantors' Land" consists of that portion of Bay Street from Poe Street east to Allen Avenue abandoned by the City Council of the City of Providence by virtue of Resolution No. 644 of the City Council of the City of Providence, approved November 22, 1996.

Section 3 -- Location of the Distribution System

The location of the "Distribution System" shall become established as the same are now located, but, provided, however, that if the future use or development of the said abandoned portion of Bay Street shall require the relocation of said Distribution System, or any part or parts thereof, then, the Grantee, at the written request of the Grantor, will make such relocation to mutually satisfactory alternate locations, and the Grantee will require the Grantor to pay to the Grantee the cost of such relocation.

Section 4 -- Distribution System Ownership

It is agreed that the Distribution System shall remain the property of the Grantees, their successors and assigns, and that the Grantees, their successors and assigns shall pay all taxes assessed thereon.

IN WITNESS WHEREOF said Spur Track Properties, LLC has caused these presents to be signed by its proper officer for that purpose duly authorized this 6 day of FEBRUARY, 1997.

In the presence of

SPUR TRACK PROPERTIES, LLC

By [Signature]
Authorized Officer

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In PROVIDENCE in said County on the 6 day of FEBRUARY, 1997, before me personally appeared the above named H. CHARLES THOMIAN, Manager of Spur Track Properties, LLC, to me known and known by me to be the party executing the foregoing instrument and HE acknowledged said instrument by HIM executed to be the free act and deed of Spur Track Properties, LLC and the free act and deed of said H. CHARLES THOMIAN individually and in said capacity.

Notary Public
Printed Name: JOHN A. GLASSON
My Commission Expires: 6-24-97

MAY 06 1997

Received for Record at 47 min 12 in
Recorder of Deeds

Robert L Ricci

BK 3545 PG 215

EASEMENT

CUATRO AMIGOS HOLDING CORP., a Rhode Island Corporation ("Grantor") for and in consideration of the sum of One (\$1.00) Dollar and other valuable consideration, the receipt of which is hereby acknowledged it paid, does hereby grant and convey to the CITY OF PROVIDENCE, a municipal corporation created by the General Assembly of the State of Rhode Island, its successors and assigns, through the Providence Water Supply Board, ("Grantee") the perpetual and permanent right and easement over, along, under and above that certain parcel of land located in the City of Providence, County of Providence, State of Rhode Island, consisting of that portion of Bay Street from Poe Street east to Allens Avenue abandoned by the City Council of the City of Providence by virtue of Resolution No. 644, of the City Council of the City of Providence, approved November 22, 1996.

The easement and the right granted herein is for the purpose of the Grantee herein installing, maintaining, operating, inspecting, replacing or renewing water pipes, conduits, mains, valves, blowoffs, miscellaneous devices or the like, including any and all appurtenances thereto, necessary for or used in connection therewith.

Together with the right and privilege at such time as it in its sole discretion and without notice as it deems necessary for said Grantee, its successors, assigns, agents, servants and employees, to enter upon, over, along, under, and above said premises with vehicles, apparatus, personnel, equipment and appliance to dig and excavate the pavement and soil about said pipes, mains, services and the like as may be necessary therefor but in any of such entry to refill and repair any such excavation, carry away any surplus material and leave said premises in as good condition as it was prior to the making of any such excavation, at its sole expense, but not for the replacement, if any,

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BK3545PG216

of any out of the ordinary material placed thereon by the Grantor herein.

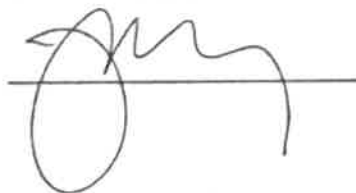
And for the consideration received, the Grantor, its successors and assigns, covenants and agrees that it will not build or erect a wall or structure of any kind, or plant trees or shrubs, in, over, above, or on the herein-described parcel, nor shall it store or allow to accumulate any material on said parcel.

The Grantor further agrees for itself, its successors and assigns, that it will maintain and be responsible for the normal repair of the surface of the herein-described parcel.

This easement is in discharge of the Grantor's obligations under that certain Resolution of the Providence City Council No. 644, Approved and Dated November 22, 1996.

IN WITNESS WHEREOF, Cuatro Amigos Holding Corp. has caused this instrument to be executed by its duly authorized agent this 6 day of FEBRUARY, 1997.

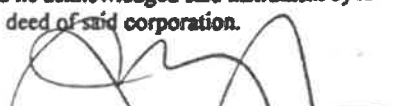
IN THE PRESENCE OF:



By: 
Cuatro Amigos Holding Corp.

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence, in said County on the 6 day of FEBRUARY, 1997, before me personally appeared H. CHARLES TAPALIAN, PRESIDENT of Cuatro Amigos Holding Corp to me known and known by me to be the person executing the foregoing instrument on behalf of said corporation, and he acknowledged said instrument by him executed to be his free act and deed and the free act and deed of said corporation.


Notary Public JOHN A. GRASSANO
My commission expires: 6-25-97

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Received for Record at
MAY 08 1997

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Robert L Ricci
Recorder of Deeds

BK3545PG217

EASEMENT

SPUR TRACK PROPERTIES, LLC, a Rhode Island limited liability company ("Grantor") for and in consideration of the sum of One (\$1.00) Dollar and other valuable consideration, the receipt of which is hereby acknowledged it paid, does hereby grant and convey to the **CITY OF PROVIDENCE**, a municipal corporation created by the General Assembly of the State of Rhode Island, its successors and assigns, through the Providence Water Supply Board, ("Grantee") the perpetual and permanent right and easement over, along, under and above that certain parcel of land located in the City of Providence, County of Providence, State of Rhode Island, consisting of that portion of Bay Street from Poe Street east to Allens Avenue abandoned by the City Council of the City of Providence by virtue of Resolution No. 644, of the City Council of the City of Providence, approved November 22, 1996.

The easement and the right granted herein is for the purpose of the Grantee herein installing, maintaining, operating, inspecting, replacing or renewing water pipes, conduits, mains, valves, blowoffs, miscellaneous devices or the like, including any and all appurtenances thereto, necessary for or used in connection therewith.

Together with the right and privilege at such time as it in its sole discretion and without notice as it deems necessary for said Grantee, its successors, assigns, agents, servants and employees, to enter upon, over, along, under, and above said premises with vehicles, apparatus, personnel, equipment and appliance to dig and excavate the pavement and soil about said pipes, mains, services and the like as may be necessary therefor but in any of such entry to refill and repair any such excavation, carry away any surplus material and leave said premises in as good condition as it was prior to the making of any such excavation, at its sole expense, but not for the replacement, if any,

BK3545PG218

of any out of the ordinary material placed thereon by the Grantor herein.

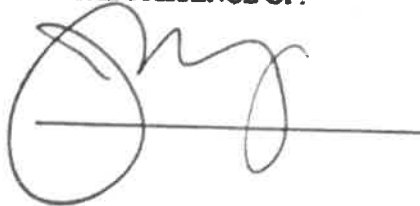
And for the consideration received, the Grantor, its successors and assigns, covenants and agrees that it will not build or erect a wall or structure of any kind, or plant trees or shrubs, in, over, above, or on the herein-described parcel, nor shall it store or allow to accumulate any material on said parcel.

The Grantor further agrees for itself, its successors and assigns, that it will maintain and be responsible for the normal repair of the surface of the herein-described parcel.

This easement is in discharge of the Grantor's obligations under that certain Resolution of the Providence City Council No. 644, Approved and Dated November 22, 1996.

IN WITNESS WHEREOF, Spur Track Properties, LLC, has caused this instrument to be executed by its duly authorized agent this 6 day of FEBRUARY, 1997.

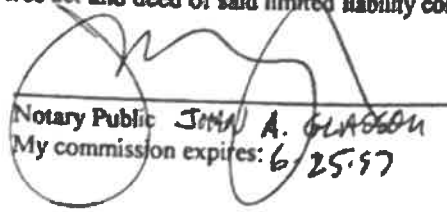
IN THE PRESENCE OF:



By: 
Spur Track Properties, LLC

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

In Providence, in said County on the 6 day of FEBRUARY, 1997, before me personally appeared H. CHARLES TAPALIAN, PRESIDENT of Spur Track Properties, LLC, to me known and known by me to be the person executing the foregoing instrument on behalf of said limited liability company, and he acknowledged said instrument by him executed to be his free act and deed and the free act and deed of said limited liability company.


Notary Public J. A. GLASSON
My commission expires: 6/25/97

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MAY 06 1997
Recorder of Deeds

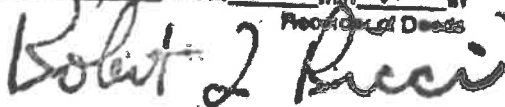


EXHIBIT 3

BK4479PG171

AGREEMENT

This agreement is made this 3rd day of October, 2000, by and among PINK BUILDING, INC. a Rhode Island corporation located at 245 Allens Avenue, Providence, R.I. 02905, CUATROS AMIGOS HOLDING CORP. a Rhode Island corporation, located at 255 Allens Avenue, Providence, Rhode Island 02905 and SPUR TRACK PROPERTIES, LLC a Rhode Island Limited Liability Company located at 257 Allens Avenue, Providence, Rhode Island 02905.

1. PINK BUILDING, INC. is the record owner of that certain parcel of real-estate located at 245 Allens Avenue, Providence, Rhode Island marked on Tax Assessor's Plat 46, Lot 433 and 497. CUATRO AMIGOS HOLDING CORP is the record owner of that certain parcel of real estate located at 255 Allens Avenue Providence, Rhode Island, marked on Tax Assessor's Plat 46, Lot 428. SPUR TRACK PROPERTIES LLC is the record owner of that certain parcel of real estate located at 257 Allens Avenue, Providence, Rhode Island, marked on Tax Assessor's Plat 47, Lots 14 and 16.
2. It is hereby agreed for mutual exchanges of consideration, by and among PINK BUILDING, INC., CUATRO AMIGOS HOLDING CORP. and SPUR TRACK PROPERTIES LLC. that each entity shall have the use of the others available parking located at 245, 255 and 257 Allens Avenue respectively and all available parking on Bay street; see attached appendix A, entitled "Parking Plan".

PINK BUILDING, INC.

By: 

CUATRO AMIGOS HOLDING CORP.

By: 

SPUR TRACK PROPERTIES, LLC

By: 

BK 479 PG 172

APPENDIX A: "PARKING PLAN" PROVIDENCE, RI
RECEIVED FOR RECORD

2020 OCT -5 A 11:33

BARBARA A. TRONCY
ACTING RECORDER OF DEEDS

